

REMARKS

In the February 4, 2008 Office Action, claims 1 - 11 and 13 - 75 were noted as pending in the application, with claims 45 - 59 having been withdrawn from consideration, and all remaining claims, namely claims 1 - 11, 13 - 44, and 60 - 75, were rejected. In the prior, August 4, 2008 RCE and Amendment, no claims were added or amended, and claims 73 and 74 were canceled. By the present Supplemental Amendment, no claims have been added or canceled, and claims 1, 5, 6, 11, 13, 14, 20, 24, 31, 32, 39, 40, 60, 64, and 75 have been amended. Thus, claims 1 - 11, 13 - 44, 60 - 72, and 75 are under examination in the application. The Remarks of the prior, August 4, 2008 RCE and Amendment are incorporated herein by reference, and the Applicants respectfully submit the additional remarks below.

Telephone Interview Conducted September 9, 2008

The Applicants note with appreciation that the Examiner made himself available for two telephone interviews on September 9, 2008 in the above-identified application.

During the interviews, the rejections of the prior, February 4, 2008, Office Action were discussed, as well as the claims as amended August 4, 2008. The Examiner provided suggestions for additional claim limitations which may overcome the art currently being held against the pending claims. The Applicants have endeavored to modify the claims in accordance with the Examiner's suggestions and respectfully submit the claims as amended for consideration.

Rejection of Claims 1 - 11, 13 - 44, 60 - 72, and 75 under 35 USC §§ 102, 103 in View of the Cited References

In the February 4, 2008 Office Action, all pending claims were rejected as anticipated or as being obvious in view of several references and combinations of references, the Winning Retail reference being the primary reference cited against the claims. Citing amended claim 1 herein in relevant portion, each of the independent claims of the present application have been amended to include the following elements:

wherein the field performance data includes data indicative of at least one of sales per hour (SPH), dollars per transaction (DPT), units per transaction (UPT), transactions per hour (TPH), traffic conversion percentage, customer traffic count, and periodic goals, wherein the hypothesizing is performed with an expert system, and wherein the store performance factors include one or more of gross sales, return sales, net sales, sales goals, dollars per transaction, and number of transactions

The Applicants respectfully submit, in addition to the assertions presented in the prior, August 4, 2008 Amendment, that none of the cited references teach the above-claimed field performance data, expert system, and store performance factors, all of which are utilized in the claimed methods and systems for measuring and analyzing store performance and determining, at the very least, a recommended action for a subject under observation, such as a store employee or the store itself.


Summary

It is submitted that none of the documents, either taken alone or in combination, teach the claimed invention. Thus, claims 1 - 11, 13 - 44, 60 - 72, and 75 are believed to be in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited. The undersigned respectfully invites the Examiner to contact him should he believe that an additional interview would be helpful.

If any fees are required in connection with this Amendment, please charge the same to our Deposit Account No. 50-4047.

Respectfully submitted,

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Date: October 9, 2008.